

REMARKS

In response to the Office Action mailed on 3/14/2005, Applicants respectfully request reconsideration. Claims 1, 5, 6, 8, 10-11, 15-16, 18, 20-22, 24-27, 30-32, 34-37, 40 are now pending in this Application. Claims 1, 11, 21, 31 are independent claims and the remaining claims are dependent claims. In this Amendment, claims 1, 5, 11, 15, 21, 31 have been amended and claims 2-4, 7, 9, 12-14, 17, 19, 23, 28-29, 33, 38-39 have been cancelled. A version of the claims containing markings to show the changes made is included herein above. Applicants believe that the claims as presented are in condition for allowance. A notice to this affect is respectfully requested.

Rejection under §112, second paragraph

Claims 4-5 and 14-15 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner points out that, in claims 4-5 and 14-15, it is not known and unclear why these recorded audio segments are used as adding segments other than silence. The Examiner further points out that adding segments other than silence would make the final audio output substantially different than the original thereby confusing the user since there is mixed information.

Applicants wish to respectfully point out that the Examiner assumes that the insertion of segments other than silence would significantly change the final audio output, thus confusing the user. With respect to this assumption, Applicants assert that the insertion of audio segments is intended to make the final audio output substantially different. However, because the user is unaware of the original output, and only hears the final audio output, the difference is transparent to the user. For example, should incoming information be delayed or slowed down in the Buffer Module 120, thereby causing a long period of silence, inserted informational audio segments such as third party background music or advertisements would help reduce confusion to the user. The user may mistakenly assume that such a long period of silence has been caused by a lost connection. One purpose of the insertion of pre-recorded informational audio segments is designed to eliminate this confusion. Accordingly, in view of the above, the rejection of claims 4-5, and 14-15 under 35 U.S.C. §112, second paragraph, is believed to have been overcome.

Rejection under §102

Claims 1-40 were rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,389,032 to Cohen (hereafter Cohen) and by U.S. Patent No. 6,658,027 to Kramer et al., (hereafter Kramer). Applicant respectfully traverses this rejection and requests reconsideration. The claims are in allowable condition.

Claims 1 and 11

Examiner rejects claims 1 and 11 by citing both Cohen (Fig.1, col.2 lines 16-33, col.5 lines 57-67) and Kramer (col.2 lines 8-35 and col. 10 lines 44-67).

With respect to Fig.1, col.2 lines 16-33, Cohen describes the use of “packets of audio data representing silence...evenly inserted between the words of the received audio data in the buffer, such that the insertion will be substantially unnoticeable to a listener.” In contrast to Cohen, the present invention uses inserted pre-recorded informational audio segments in order to purposefully alleviate long periods of silence that may confuse users. Such periods of silence may make users believe that their network connection has been disconnected. The insertion of pre-recorded informational audio segments fills gaps of silence with informational audio while audio files are buffering in order to solve this problem. Accordingly, independent claims 1 and 11 have been amended to include “inserted pre-recorded informational audio segments which were not received from said audio streaming server.” Therefore, since amended claims 1 and 11 recite insertion of “pre-recorded informational audio segments,” while Cohen recites insertion of silence, it is believed that the Examiner’s rejection of claims 1 and 11 with respect to Cohen is overcome.

-10-

With respect to col.2 lines 8-34, Kramer similarly describes a system which “extends silence intervals, by detecting silence and inserting silence frame(s) at head of jitter buffer.” (cited from col.2 lines 17-19) Kramer asserts “silence...can include background and/or comfort noise.” (cited from col.2 lines 22-24) In view of above description, the present invention uses inserted pre-recorded informational audio segments to purposefully alleviate long periods of silence, for above stated reasons. Applicants respectfully point out that there exists a distinction between the insertion of pre-recorded informational audio segments and the insertion of silence or of “background and/or comfort noise.” The insertion of pre-recorded informational audio segments involves inserting audible informational messages that are distinct from silence, “background and or/comfort noise.” Such pre-recorded informational audio segments communicate information to a listener, while silence, “background and/or comfort noise” do not.

Accordingly, independent claims 1 and 11 have been amended to include “pre-recorded informational audio segments which were not received from said audio streaming server.” Therefore, since amended claims 1 and 11 recite insertion of “pre-recorded informational audio segments,” while Kramer recites insertion of silence (including “background and/or comfort noise,”) the Examiner’s rejection of claims 1 and 11 with respect to Kramer is believed to have been overcome.

Claims 5-6, 8, 10 and 15-16, 18, 20

Claims 5-6, 8 and 10 are subsequently believed allowable as they depend from the base claim 1. Similarly, claims 15-16, 18 and 20 are believed allowable as they depend from the base claim 11. Applicants respectfully request that these dependent claims be allowed in view of above amended independent claims.

-11-

Claims 2-4, 7, 9 and 12-14, 17, 19

In view of Examiner's remarks, claims 2-4, 7 and 9 have been cancelled. For similar reasons, claims 12-14, 17 and 19 have been cancelled as well.

Claims 21, 23 and 31, 33

Examiner rejects claims 21 and 31 by citing both Cohen (col. 5 lines 27-67) and Kramer (col.5 lines 28-67 and col.10 lines 44-67). Further, Examiner rejects claims 23 and 33 by citing both Cohen (col.2 lines 40-67) and Kramer (col.5 lines 28-67 and col. 10 lines 44-67). Applicants respectfully traverse the rejection of claims 23 and 33 and request reconsideration.

With respect to col.5 lines 27-67, Cohen describes the addition of new packets of audio into the buffer labeled 40 in Figures 2 and 3. In col.5 lines 57-58, Cohen references such packets as "silence or is undefined." In contrast to Cohen, the present invention involves packets that are characterized by at least one informational audible tone, and are distinct from those cited in Cohen representing silence. Applicants respectfully submit that the deliberate insertion of an informational audible tone into the audio stream in order to be used to purposefully alleviate long periods of silence while audio data is buffering, as well as to communicate information to a listener, is significantly different than inserting silence, background and/or comfort noise.

Similarly, with respect to col.10 lines 44-67, Kramer describes an invention which will allow "the jitter buffer manager 650 to more reliably know which frames in the buffer represent silence and can therefore insert or delete silence frames in a more flexible manner." Again, Applicants respectfully submit that the deliberate insertion of an informational audible tone into the jitter buffer is substantially different than the insertion or deletion of silence frames. Accordingly, Applicants respectfully traverse the rejection of claims 23 and 33 with respect to both Cohen

-12-

and Kramer, and request reconsideration. Applicants further cancel claims 23 and 33 and amend claims 21 and 31 to include the insertion of "at least one informational audible tone among said portions rendered thereby" for the said reasons. Accordingly, Applicants amend independent base claim 21 to include the insertion of "at least one informational audible tone." For the above said reason, Applicants similarly amend independent base claim 31 to overcome the same problem.

Applicants amend independent base claim 21 to represent a "system for providing sophisticated seeking in an audio stream, the system comprising... an audio stream portion navigating seeker operative to sequentially render said portions and operative to insert at least one informational audible tone among said portions rendered thereby."

For the above said reason, Applicants similarly amend independent base claim 31 to represent a method for providing sophisticated seeking in an audio stream, the method comprising...inserting at least one informational audible tone among said portions rendered thereby."

Therefore, since amended claims 21 and 31 recite insertion of "at least one informational audible tone," while Cohen and Kramer recite the insertion of silence, including "background and/or comfort noise," none of which may be considered informational, the Examiner's rejection of claims 21 and 31 is believed to have been overcome.

Claims 22, 24-27, 30 and 32, 34-37, 40

Claims 22, 24-27, and 30 are subsequently believed allowable as they depend from the base claim 21. Similarly, claims 32, 34-37, and 40 are believed allowable as they depend from the base claim 31. Applicants respectfully

-13-

request that these dependent claims be allowed in view of above amended independent claims.

Claims 23, 28-29 and 33, 38-39

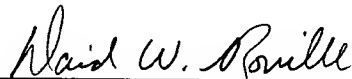
In view of Examiner's remarks, claims 23, and 28-29 have been cancelled. For similar reasons, claims 33, and 38-39 have been cancelled as well.

In view of the above, the Examiner's rejections are believed to have been overcome, placing claims 1, 5-6, 8, 10-11, 15-16, 18, 20-22, 24-27, 30-32, 34-37 and 40 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

If the U.S. Patent and Trademark Office deems a fee necessary, this fee may be charged to the account of the undersigned, Deposit Account No. 50-0901.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,



David W. Rouille, Esq.  
Attorney for Applicant(s)  
Registration No.: 40,150  
CHAPIN & HUANG, L.L.C.  
Westborough Office Park  
1700 West Park Drive  
Westborough, Massachusetts 01581  
Telephone: (508) 366-9600  
Facsimile: (508) 616-9805  
Customer No.: 022468

Attorney Docket No.: NMS03-14

Date: July 12, 2005